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The C A S E of Sir William Cobb, and other Legatees of John Coke late of Holkham in the County of Norfolk, humbly offer'd to the Consideration of the Lords Spiritual and Temporal in Parliament Assembled at Westminster.

THAT *John Coke* being seiz'd in fee of divers Mannors and Lands in *Norfolk* and *Suffolk*, being about the value of 7000*l. per Annum*, made a voluntary settlement thereof from the above named Legatees, who were his own Sisters Children, and entail'd it to several of his Collateral Relations, of his Name, under which settlement *Edward Coke* the Appellant now claimeth.

July 28.
1671. In the said Settlement *John Coke* reserved a power to make any Leases for such term as he thought fit; and in pursuance of such Power did make a Lease of part of the said Lands, being the Mannor of *Holkham*, and several other Lands in *Norfolk* and *Suffolk*, of about the value of 1200 *l. per Annum*, unto *Robert Coke* of *Non-such*, and *William Gnavus* for 500 years in Trust (after discharge of his Debts and Funeral expences) for payment of such Legacies as he should give by his Will; and after such his Debts, Funeral expences, and Legacies should be paid and satisf'd, the said term should attend the Inheritance.

That after on the same day *John Coke* made his Will, and did thereby give unto his Sisters Children, being seven in number, to each of them one thousand pounds, in full of all they should claim from him the said *John Coke*, which he particularly appoints to be paid out of the profits of *Holkham* (being about the value of 7000 *l. per Annum*) as his Trustees could conveniently raise the same, with a *Proviso*, that in case any of the Legatees should disturb his Executors and Trustees, that then his or their Legacies should be void.

John Coke died, and *Gnavus* and *Robert Coke* of *Non-such*, his Trustees enter, and receive the profits of the Trust Estate; and the Appellants Father several years before his death entered and receiv'd part of the Rents and Profits thereof, and applied them to his own use during his life, which he ought not to have done; and after his death *Gnavus* and *Robert Coke*, the other Trustee, did also enter and receive the Rents and Profits of the same, and applied them to the payment of Debts.

Easter
Term 78. The Legatees from time to time demanded their Legacies of the Trustees, and in *Easter* Term 78. brought a Bill to compell payment, and other Bills since, but they were always answer'd there were no Assets receiv'd by the said Trustees, and the Appellants Father.

Hilary
Term 82. The Appellant prefer'd a Bill in the Exchequer, against the Trustees, to call them to account for the Profits received, and in *Hilary* Term 82. *Gnavus*, (being the only surviving Trustee,) was Decreed to account; and the Court doubting the Solvency of *Gnavus*, Order'd the Appellant to name a Receiver of the Rents, giving Security to apply the Profits to the payment of Debts and Legacies.

That accordingly the Rents have been received by the Appellants Agent, ever since *Michaelmas* 83, and some Debts paid which were within the Trust, and others which were out of the Trust, but none of the Legacies; but the Appellants Mother and her Agents have now in their hands about 6000 *l.* which they refuse to apply in discharge of the Legacies or bring into Court.

That on the account taken in the Exchequer, after a long attendance on both sides, the Auditor makes his Report, to which the Appellant excepted; and afterwards a second Report, to which the Appellant and the said *Gnavus* took their several exceptions, which took six days arguing in *Michaelmas* Term 86, and afterward the Court orders the Auditor to review his Report.

Feb. 23.
1686. The Auditor made his Report, That *Gnavus* had disburs'd 630 *l.* more than he had receiv'd, whereupon the Appellant obtain'd an Order to refer some matters back again to the Auditor, but the Appellant desisted, and did not think fit to proceed thereupon; and though Summon'd to attend the Auditor, yet refused to attend.

April 26.
1686. The Legatees having preferred their Bill in Chancery against the Appellant and *Gnavus* for their Legacies, on the 26th of April 1686. it was Decreed, that there should be an Account of the Profits received by *Gnavus*, and this Account depended before a Master Two years, where all sides were fully heard.

April 12.
1688. The Master makes his Report, and reported *Gnavus* to have disburs'd more than received out of the Estate 1355 *l.* 15 *s.* to which Report the Appellant took Exceptions to several things which were allowed by him as good Payments before the Master; but *Gnavus*, before the same came to be Argued, Petitioned for a Re-hearing *ab Origine*.

July 3.
1689. The Cause came before the Lords Commissioners of the Great Seal, for a Re-hearing upon that Petition, whereupon the Court thought fit to Decree the Possession of *Holkham* to the Legatees towards Satisfaction of their Legacies, and the Tennants to attorne and reserve Consideration of Interest and Cost for these Reasons.

First, That there was just Reason for *John Coke* to give those Legacies to the Legatees who were his Heirs, and had Legacies given by his Father's Will which were unpaid, and which would have been as valuable if then paid with Interest, as those he gave them.

Secondly, That it appeared by both Reports the Land had not borne its Burthen.

Thirdly, That if there had been sufficient raised, yet by the Express Limitation of the Trust, the Term not being to attend the Inheritance till after the Legacies paid and satisf'd, the Land could not be discharged till actual Payment.

Fourthly, That admitting the Land had been discharged after the Money raised and before Payment, yet the Legacies could not be affected with it, unless *Gnavus* had received out of the Estate near Ten thousand Pounds more than would discharge the Debts (which was not likely, since by both Reports it appeared that he had not received enough:) For that there being several other Legacies and Charges upon the Estate by the Will of *John Coke*, to about that Value. The Loss (if any happened) by the Insolvency of *Gnavus*, would first light upon them who had no other Security for their Legacies, but the General Trust limited in the Deed, whereas the Legatees were not only Intitled under the General Trust as Legatees, but there was a particular Appointment by the Will for their Security, *viz.* The Profits of *Holkham*, so as they ought to have a Preference to the others.

The said Legatees having been delay'd so many years in the receiving their so just Demands, by the Dilatory Practices of the Appellants Agents, hope this Honourable House will in their Great Justice order a speedy Payment of their Legacies.